IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3256 OF 2007

Sau.Poonam P. Pisat ...Petitioner

Versus

Ismail Ahmed Dhanse & Ors. ...Respondents

Shri C.G.Gavnekar for the Petitioner.
Shri M.H.Solkar holding for Shri M.H.Banderkar for the Respondent No.3.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 07, 2007.

P.C.:

1. Heard the learned Advocate for the Petitioner in this Petition under Article 227 of the Constitution of India. The challenge is to the order dated 16th July, 2007 passed by the trial Court by which Application at Exhibit 105 made by the Petitioner has been rejected. Prayer in the Application at Exhibit 105 was for permitting the Petitioner to examine herself and to examine other witnesses for proving the documents produced alongwith the list of documents at Exhibit 62.

2. The learned Advocate for the Petitioner invited my attention to observations made by the learned trial Judge on merits of the documents produced alongwith list at Exhibit 62. He submitted that said observations could not have been made as the Petitioner was seeking a permission to lead evidence for proving the said documents. He submitted that an opportunity ought to

have been granted by the trial Court to the Petitioner to lead further evidence.

3. I have considered the submissions. The Petitioner examined her husband as a witness in his capacity as her constituted attorney. The examination of the husband of the Petitioner was concluded on 22nd March, 2004. The documents alongwith list at Exhibit 62 have been filed on 16th January, 2004 i.e when the recording of evidence of the constituted attorney of the Petitioner was in progress. The application at Exhibit 105 is filed in March 2007 when the suit was fixed for hearing of final arguments.

4. Considering these facts, no interference can be made with the impugned order at this stage. The order being of interlocutory nature can be always subjected to challenge in an Appeal which may be preferred by the Petitioner against the decree passed in the suit. The observations made by the learned trial Judge in the impugned order on merits of the case made out by the Petitioner are only tentative observations made for limited purpose of deciding the Application Exhibit 105 and the learned trial Judge is bound to decide the suit finally without being influenced by the said observations.

5. Subject to what is stated above, Writ Petition

is rejected.

JUDGE